

Serial No. 10/712,818

Docket No. CC-0675

REMARKS/ARGUMENTSRECEIVED  
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Claims 1-8, and 10-39 are pending in the present application.

1. The Examiner has rejected Claims 1-8, 10-11, 14-34 and 37 under 35 U.S.C. 103(a) as being unpatentable over Gysling, et al. (6,354,147) (Hereinafter referred to as '147) in view of Gysling, et al. (US 2004/0069069 (Hereinafter referred to as '069).

After reviewing the priority of Gylsing, et al. ('069) and the present patent application, it appears that Gysling, et al. ('069) is cited reference only under 35 U.S.C. 102(e), and therefore the present obvious rejection is a 35 U.S.C. 102(e)/103 obviousness rejection. According to 35 U.S.C. 103(c)(1), "Subject matter developed by another person, which qualifies as prior art only under one or more of the subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person." The Attorney of Record states that the present Application Serial No. 10/712,818 and U.S. Patent Application No. 10/412,839 (Gysling, et al. '069) were, at the time the invention of Application Serial No. 10/712,818 was made, owned by CiDRA Corporation.

Applicants contend under 35 U.S.C. 103(c) that the subject matter in Gysling, et al.('069) is now disqualified, and therefore the rejection of claims 1-8, 10-11, 14-34 and 37 is now moot.

2. The Examiner has rejected claims 14 and 37 under 35 U.S.C. 103(a) as being unpatentable over Gysling, et al. (6,354,147) in view of Gysling, et al (US 2004/0069069) and further view of Krempl, et al. (US 4,216,403). For the reasons provided herein before, Applicants submit that the objection is now moot.

3. Applicants acknowledge that claims 12, 13, 35, 36, 38 and 39 would be allowable as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants reserve the right to amend the claims to overcome the objection at the conclusion of the prosecution of the independent claims

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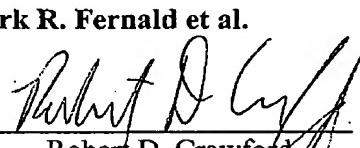
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4. A petition for a one-month extension of time under 37 CFR 1.136 is submitted herewith. Applicant requests the fees of \$120.00 for the one (1) month extension of time be charged to Deposit Account 50-0260 Order No. CC-0675. Any deficiency or overpayment should be charged or credited to Deposit Account No. 50-0260 Order No. CC-0675.

Respectfully submitted,

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By:



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